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OFFICE OF PETITIONS

In re Application of:
Kapur, et al.
Application No. 09/624,131
Filed: July 21, 2000
Attorney Docket No. 97,223-I

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DECISION ON PETITION

This is a decision on the petition, filed September 27, 2005, under 37 CFR 1.182 to substitute a prior filed terminal disclaimer for the terminal disclaimer filed on September 27, 2005.

The petition under 37 CFR 1.182 that the USPTO accept a "replacement" Terminal Disclaimer is **dismissed**. Pursuant to petitioners' authorization, deposit account no. 13-2490 will be charged the required \$400.00 37 CFR 1.182 petition fee.

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Reconsideration petition under 37 CFR 1.182." This is **not** final agency action within the meaning of 5 U.S.C. §704.

Petitioners request that the Office accept a corrected terminal disclaimer to replace the April 1, 2003 terminal disclaimer. Petitioners note that the corrected terminal disclaimer provides the same disclaimer for which withdrawal is sought. It is unclear why petitioners desire this substitution.

It is noted that a RCE is being filed concurrently. The filing of a RCE does not nullify the effect of a terminal disclaimer, since a new application has not been filed, but rather prosecution has been continued in the existing application.

A few differences between the terminal disclaimers are noted: First, the replacement terminal disclaimer lists the owner as Cellomics, while the original terminal disclaimer lists the owner as Cellomics, Inc.. The undersigned has not found an assignment or assignment record that lists the owner as Cellomics. Second, the replacement terminal disclaimer lists the address of the law firm in pertinent part as, 31st floor, while the correspondence address of record cites the 32nd floor.

Petitioners should clarify the reasons supporting the requested relief.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3230.



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